

# **EXHIBIT A**

CONDENSED COPY

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 07 Civ. 2735(DC)  
-----x

3 SOMPO JAPAN INSURANCE COMPANY OF  
4 AMERICA, and SOMPO JAPAN INSURANCE,  
5 INC.,

6 Plaintiffs,

7 vs.

8 NORFOLK SOUTHERN RAILWAY COMPANY,  
9 NORFOLK SOUTHERN CORPORATION, and  
10 THE KANSAS CITY SOUTHERN RAILWAY  
11 COMPANY,

12 Defendants.  
-----x

13 Deposition of KUBOTA CORPORATION

14 by TAKESHIYO YOKOO, taken at the office

15 of Sompo Japan Insurance Company Of

16 America, Two World Financial Center,

17 225 Liberty Street, New York, New York,

18 on November 7, 2008, at 1:15 p.m.,

19 pursuant to F.R.C.P. 30(b)(6) and Notice,

20 before Robert M. Levine, a Shorthand Reporter

21 and Notary Public of the State of New York.

22  
23 REGENCY REPORTING, INC.

24 Certified Court Reporters & Videographers

25 425 Eagle Rock Avenue 575 Madison Avenue  
Roseland, NJ 07068 New York, NY 10022

www.regencyreporting.net (866) 268-7866

<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 MALOOF, BROWNE &amp; EAGAN, LLC</p> <p>4 Attorneys for the Plaintiffs and witness</p> <p>5 411 Theodore Fremd Avenue, Suite 190</p> <p>6 Rye, New York 10580</p> <p>7 (914) 921-1200</p> <p>8 BY: THOMAS EAGAN, ESQ.,</p> <p>9 JACQUELINE JONES, ESQ.</p> <p>10</p> <p>11 KEENAN COHEN &amp; HOWARD, P.C.</p> <p>12 Attorneys for Defendants</p> <p>13 One Pitcairn Place, Suite 2400</p> <p>14 165 Township Line Road</p> <p>15 Jenkintown, Pennsylvania 19046</p> <p>16 (215) 609-1110</p> <p>17 BY: ALFONSO GAMBONE, ESQ.</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 FRANCES SEEDS,</p> <p>21 Japanese Interpreter</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1</p> <p>2 FRANCES SEEDS, called as the</p> <p>3 official interpreter in this matter, was duly</p> <p>4 sworn by the Notary Public (Robert M. Levine)</p> <p>5 to accurately and faithfully translate the</p> <p>6 questions propounded to the witness from</p> <p>7 English into Japanese and the answers given</p> <p>8 by the witness from Japanese into English,</p> <p>9 being first duly sworn by the Notary Public</p> <p>10 (Robert M. Levine), testified as follows:</p> <p>11 TAKEHASHI YOKOO, being first duly</p> <p>12 sworn by the Notary Public (Robert M.</p> <p>13 Levine), testified as follows:</p> <p>14 THE REPORTER: Full name and</p> <p>15 address for the record.</p> <p>16 THE WITNESS: My name is</p> <p>17 Takehashi, T-a-k-e-s-h-i-y-o-o, Yokoo,</p> <p>18 Y-o-k-o-o. My address is 686-13 Hanare,</p> <p>19 H-a-n-a-r-e, Tsukuba City, Ibaraki</p> <p>20 Prefecture, Japan.</p> <p>21 MR. EAGAN: Mr. Yokoo, my name is</p> <p>22 Thomas Eagan. I'm an attorney for Sampo</p> <p>23 Japan, the plaintiffs in this case. And also</p> <p>24 represent the witness for the purpose of the</p> <p>25 deposition.</p>
<p style="text-align: right;">3</p> <p>1 IT IS HEREBY STIPULATED AND</p> <p>2 AGREED, by and between the attorney for the</p> <p>3 respective parties herein, that the sealing,</p> <p>4 filing and certification of the within</p> <p>5 deposition be waived; and sworn to before an</p> <p>6 officer authorized to administer an oath, with</p> <p>7 the same force and effect as if signed and</p> <p>8 sworn to before the officer before whom said</p> <p>9 deposition is taken.</p> <p>10 IT IS FURTHER STIPULATED AND</p> <p>11 AGREED that all objections, except as to form,</p> <p>12 are reserved to the time of trial.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 Takehashi Yokoo</p> <p>2 Have you ever been deposed</p> <p>3 before?</p> <p>4 THE WITNESS: No. It is my first</p> <p>5 time.</p> <p>6 MR. EAGAN: I'm going to ask you</p> <p>7 a series of questions. After which, Mr.</p> <p>8 Gambone, attorney for Norfolk Southern</p> <p>9 Railroad will ask you questions as well. And</p> <p>10 beyond that there may be some additional back</p> <p>11 and forth questions between us with you.</p> <p>12 If there is any question that you</p> <p>13 do not understand, please say so and we will</p> <p>14 try to rephrase it or clarify it so you're</p> <p>15 able to answer.</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. EAGAN: <u>If at any point</u></p> <p>18 <u>during the deposition you feel you need a</u></p> <p>19 <u>break for any reason, please say so and we</u></p> <p>20 <u>will accomodate.</u></p> <p>21 <u>For the record, the witness is</u></p> <p>22 <u>here pursuant to a notice of deposition which</u></p> <p>23 <u>the plaintiffs had issued in this case which</u></p> <p>24 <u>was previously marked as Exhibit 1-A. And</u></p> <p>25 <u>he's also being produced as the 30(b)(6)</u></p>

<p>6</p> <p>1 Takehashi Yokoo</p> <p>2 <u>witness for the plaintiffs. The topics of</u></p> <p>3 <u>No. 6, No. 5, to the extent Kubota does have</u></p> <p>4 <u>knowledge. And No. 29.</u></p> <p>5 EXAMINATION BY MR. EAGAN:</p> <p>6 Q. Mr. Yokoo, by whom are you employed?</p> <p>7 A. I am working at Kubota Corporation.</p> <p>8 Q. How long have you been employed by</p> <p>9 them?</p> <p>10 A. I've been working there for</p> <p>11 approximately 22 years.</p> <p>12 Q. If you could turn to what's been marked</p> <p>13 as Exhibit 23 in the exhibit binder in front of you.</p> <p>14 And I ask if you could confirm what that document</p> <p>15 is?</p> <p>16 A. What is written in this document is my</p> <p>17 final education received, as well as the work that I</p> <p>18 engage myself since I've entered Kubota Corporation.</p> <p>19 Q. Have you worked at Tsukuba plant your</p> <p>20 entire career at Kubota?</p> <p>21 A. Yes.</p> <p>22 Q. Since June 2004 you're section manager</p> <p>23 of the logistics group?</p> <p>24 A. Yes.</p> <p>25 Q. What are the responsibilities of the</p>	<p>8</p> <p>1 Takehashi Yokoo</p> <p>2 <u>plant, correct?</u></p> <p>3 <u>A. Yes.</u></p> <p>4 <u>Q. Approximately when did Kubota first</u></p> <p>5 <u>manufacture that model of tractor?</u></p> <p>6 <u>A. It was produced from around November</u></p> <p>7 <u>2005.</u></p> <p>8 <u>Q. Do you still produce it today?</u></p> <p>9 <u>A. Yes. The production is still</u></p> <p>10 <u>continuing on a continuous basis.</u></p> <p>11 <u>Q. For model 8540, are you familiar with</u></p> <p>12 <u>that?</u></p> <p>13 <u>A. Yes.</u></p> <p>14 <u>Q. That model is also produced at the</u></p> <p>15 <u>Tsukuba plant?</u></p> <p>16 <u>A. Yes.</u></p> <p>17 <u>Q. Was that first produced by Kubota in</u></p> <p>18 <u>around November of 2005 as well?</u></p> <p>19 <u>A. Yes. That's correct.</u></p> <p>20 <u>Q. And you're familiar with the Kubota</u></p> <p>21 <u>tractor models 6040 and 5040?</u></p> <p>22 <u>A. Yes.</u></p> <p>23 <u>Q. Those are manufactured at the Tsukuba</u></p> <p>24 <u>plant?</u></p> <p>25 <u>A. Yes.</u></p>
<p>7</p> <p>1 Takehashi Yokoo</p> <p>2 logistic group in the production control section?</p> <p>3 A. Yes.</p> <p>4 Well, first of all, with regard to the</p> <p>5 new products that are newly manufactured, that would</p> <p>6 be directed to both the domestic market as well as</p> <p>7 the markets abroad.</p> <p>8 When those tractors are produced, the</p> <p>9 logistics plan is devised by us. And the packaging</p> <p>10 and the configuration that that packaging would take</p> <p>11 is also done by us, as well as the management</p> <p>12 overall of the shipping of those products.</p> <p>13 Q. You, yourself, though, what are your</p> <p>14 duties as the section manager?</p> <p>15 A. As far as my duties are concerned as</p> <p>16 section manager, I engage myself in various</p> <p>17 management operations. Which include the approval</p> <p>18 of the logistics packaging that is to be utilized,</p> <p>19 as well as the considerations that are made by the</p> <p>20 staff who work underneath me with regard to those</p> <p>21 packages.</p> <p>22 <u>Q. Are you familiar with a Kubota tractor</u></p> <p>23 <u>model No. 9540?</u></p> <p>24 <u>A. Yes.</u></p> <p>25 <u>Q. That's manufactured at the Tsukuba</u></p>	<p>9</p> <p>1 Takehashi Yokoo</p> <p>2 Q. Kubota also commenced manufacturing of</p> <p>3 those for the first time around November 2005?</p> <p>4 A. As far as these model types are</p> <p>5 concerned, the 6040 and the 5040, I believe that the</p> <p>6 manufacturing was begun in February of 2006.</p> <p>7 Q. Approximately how many of the 9540</p> <p>8 models does the plant manufacture in a given year?</p> <p>9 A. As far as the 9540 model is concerned,</p> <p>10 approximately, annually, about 5,000 units of those</p> <p>11 are produced.</p> <p>12 Q. How about the 8540 model?</p> <p>13 A. As far as this is concerned, on an</p> <p>14 annual basis it would be approximately 2,500 of</p> <p>15 these.</p> <p>16 Q. The 6040 model?</p> <p>17 A. As far as this is concerned, on an</p> <p>18 annual basis, about 2,000 of these are produced.</p> <p>19 Q. Has the production in those numbers</p> <p>20 been consistent since 2006?</p> <p>21 A. They are pretty much consistent,</p> <p>22 although, very gradually, the numbers have increased</p> <p>23 somewhat.</p> <p>24 Q. Does the Tsukuba plant manufacture</p> <p>25 tractors when they receive orders from customers or</p>

30

1 Takehashi Yokoo

2 the packaging line.

3 Q. By "final inspection" are you referring

4 to the final inspection that's set forth in the

5 documents that are in Exhibit 1?

6 A. That's correct.

7 Q. And that's the same procedure was

8 followed in 2006 as it is today?

9 A. Yes.

10 Q. After the tractors are put onto the

11 frames, what is the next step in terms of getting

12 those tractors to your customers?

13 A. Yes. As far as this tractor which has

14 been packaged and put on the metal frame by the

15 tractor section, we then receive that at logistics

16 and put it in the warehouse by having trucks

17 transport it to the warehouse. And based on the

18 orders that we receive from the sales department, we

19 would then do the vanning work that needs to be

20 conducted to prepare for the shipping of this.

21 Q. Where is the warehouse located that you

22 just referred to?

23 A. It is located very close to our plant.

24 Q. Can you give us the approximate

25 distance?

31

1 Takehashi Yokoo

2 A. Approximately, 100 to 200 meters, I

3 believe.

4 Q. Is there a particular trucking company

5 that Kubota uses to transport the trucks the 100 to

6 200 meters?

7 A. Yes.

8 Q. What's the name of that company?

9 A. We contract out the work to Mitsukaido,

10 M-i-t-s-u-k-a-i-d-o Truck Cooperative.

11 Q. For what period of time has Kubota been

12 dealing with the Mitsukaido Truck Cooperative?

13 A. We've had a business relationship with

14 them for approximately a little over 30 years; that

15 is to say, every since our plant was opened.

16 Q. Do you find them to be a careful and

17 reliable trucker?

18 A. Yes.

19 Q. That was the trucking company which

20 transported the particular tractors that are at

21 issue in this litigation from your plant to the

22 warehouse?

23 A. Yes.

24 Q. The warehouse that you referred to, is

25 that a Kubota warehouse, or is it a warehouse

32

1 Takehashi Yokoo

2 operated by another entity?

3 A. It is the warehouse of a different

4 operating company.

5 Q. What's the name of that company?

6 A. It is Kyuwasoko, K-y-u-w-a-s-o-k-o.

7 Q. How long has your company done business

8 with Kyuwasoko?

9 A. This relationship too we've had with

10 them ever since the operations began at our plant.

11 So it would be over 30 years we've had this

12 relationship with them.

13 Q. What does Kyuwasoko do with the cargo

14 once they receive it?

15 A. First of all, they would store the

16 products and categorize them according to the model

17 type when they store them.

18 Q. Anything else?

19 A. After they've stored it. They would

20 then do the vanning work.

21 Q. By vanning, do you mean putting the

22 tractors which are in their frames into shipping

23 containers?

24 A. That's correct. Yes. That's right.

25 Q. That's done at the warehouse that's

33

1 Takehashi Yokoo

2 located nearby your facility?

3 A. Yes.

4 Q. What is the next step in getting your

5 tractors out to your customers once they're put into

6 vans?

7 A. The next step would be to actually

8 transport that container or those containers to the

9 port which is Tokyo port.

10 Q. Is there a particular company which is

11 utilized for that transportation?

12 A. Yes.

13 Q. What's the name of that company?

14 A. It is Tatsumi, T-a-t-s-u-m-i, Shokai,

15 S-h-o-k-a-i.

16 Q. Does the vanning company hire the

17 trucker or does Kubota?

18 THE INTERPRETER: Counsel, did

19 you say does the vanning company hire the

20 trucker?

21 Q. The trucker.

22 Does Kubota hire the trucker to

23 transport it from the warehouse to the port?

24 A. Kubota Corporation hires the freight

25 forwarder, which in this case asks Tatsumi to handle

34

36

1 Takehashi Yokoo

2 that portion of it.

3 Q. I'm sorry if I asked this.

4 How many years has your company been  
5 dealing with Tatsumi Shokai?

6 A. This relationship, too, has existed  
7 since the plant had begun its operations. So this  
8 would be about 30 years as well.

9 Q. Did you find them to be a careful and  
10 reliable company?

11 A. Yes.

12 Q. You found Kyuwasoko has been a  
13 reliable, careful contractor for your company; is  
14 that correct?

15 A. Yes.

16 Q. Now, the tractors are put into shipping  
17 containers at the warehouse near your factory. And  
18 then containers are taken by truck to the load port.

19 How many containers does each truck  
20 carry when it delivers the tractors to the load  
21 port?

22 A. Well, it would differ according to the  
23 model type we are talking about. As far as the  
24 larger size tractors are concerned naturally, the  
25 numbers of these that are packaged one upon the

1 Takehashi Yokoo

2 shipping container?

3 A. May I ask you if by your question you  
4 are asking me how many tractors would be loaded onto  
5 the container?

6 Q. Yes.

7 A. Yes. Well, with regard to these model  
8 types, that is, the M8540 and the 9540 are  
9 concerned, if it's a specification, then it would be  
10 eight tractors. And if it's a cabin specification,  
11 then it would be three tractors at that time.

12 Q. For the shipment that's at issue in  
13 this litigation, it was three tractors per  
14 container, correct?

15 A. Yes.

16 Q. And for the smaller size tractors, the  
17 6040 and the 5040 for the tractors at issue in this  
18 litigation, was it 10 tractors per container?

19 A. Yes.

20 Q. Just going back to this exhibit which  
21 has been marked as 25, besides the first and the  
22 last page, are there any other pages which deal with  
23 the two larger size tractors?

24 A. When you say the larger tractors, do  
25 you mean the 8540 and the 9540?

35

37

1 Takehashi Yokoo

2 other would be fewer in number in comparison to the  
3 smaller model type tractors.

4 Q. I'm sorry. I wasn't clear.

5 The tractors are put into containers at  
6 the warehouse. And by containers I mean the 40-foot  
7 shipping containers that's utilized to carry the  
8 goods abroad.

9 Is my understanding correct?

10 THE INTERPRETER: Counsel, very  
11 sorry, but is your understanding correct that  
12 they're put on 40-foot shipping containers;  
13 is that the question.

14 MR. EAGAN: Yes. At the  
15 warehouse.

16 THE INTERPRETER: Thank you.

17 A. Yes. That is correct.

18 Q. Does the truck carry one container at a  
19 time, two containers at a time? What's the number?

20 A. It's one.

21 Q. One container per truck?

22 A. That's right.

23 Q. For the larger size tractors, the 9540  
24 and the 8540 back in 2006, the time of this  
25 shipment, how many tractors were put into the

1 Takehashi Yokoo

2 Q. Yes.

3 A. No, there are not. It's only the first  
4 and the last pages that are relevant to those.

5 Q. Mr. Yokoo, I'd like you to look at what  
6 we have marked as Exhibit 5.

7 MR. EAGAN: Off the record.

8 (Discussion off the record.)

9 MR. EAGAN: Back on the record.

10 Q. Mr. Yokoo, I show you what's been  
11 marked as Exhibit 5 and ask if you can identify this  
12 document for us?

13 A. Yes. This is the container cargo  
14 sending in chart.

15 Q. Looking at the column that's on the  
16 left-hand side of the page, what is written here in  
17 the top left corner?

18 A. This shows the vessel name that will be  
19 handling the cargo, the shipping company.

20 Q. The name of the shipping company or the  
21 name of the vessel for the top one?

22 A. It's the name of the company that owns  
23 the vessel that will be transporting the cargo.

24 Q. Does the box YML mean Yang Ming Lines?

25 A. That's correct.